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SECTION 5

SECTION 4(f) AND 6(f)

INTRODUCTION

The U.S. Department of Transportation's Section 4(f) law (49 USC 303) states that federal funds may not be approved for projects that use land from a significant publicly owned park, recreation area, wildlife or waterfowl refuge, or any significant historic site unless it is determined that there is no feasible and prudent alternative to the use of land from such properties and the action includes all possible planning to minimize harm to the property resulting from such use.

Section 6(f) of the Land and Water Conservation Fund (L&WCF) Act states that property purchased or developed with funds under the act may not be converted to other than outdoor public recreation uses. The Act also states that land required from such properties must be replaced with property of at least equal fair market value and of reasonably equivalent usefulness and location, or be compensated through other means in consultation with DNR, the agency responsible for administering L&WCF funds and other aspects of the Act.

Compensation is also required when right-of-way is acquired from properties purchased or developed with other federal or state funds that are designated, allocated, and administered similar to L&WCF funds.

PROPOSED ACTION

The purpose of the WIS 83 corridor study is to develop a long-range plan for improving traffic flow and safety in the WIS 83 corridor while minimizing disturbance to the natural and built environment. The need for proposed transportation improvements is based on a combination of factors that include existing and future traffic demand, existing deficiencies, safety, system linkage, and corridor preservation. See EIS Section 1 for detailed information.

The Build Alternatives under consideration focus on widening the majority of WIS 83 to a multi-lane facility and providing a best-fit alignment that balances overall impacts to adjacent development and environmental resources to the extent possible and practical. In the traffic gap segment from County X to County DE/E, including the Genesee Depot area, the reasonable Build Alternatives include a 2-Lane Reconstruction Alternative, a 4-Lane Corridor Preservation Alternative oriented to the existing highway alignment, and a 4-Lane Corridor Preservation Alternative on new alignment west/south of existing WIS 83 at Genesee Depot. See EIS Section 2 for detailed information.

SECTION 4(f) AND SECTION 6(f) APPLICABILITY

Publicly owned resources in the area of potential effect for proposed improvements to WIS 83 are discussed in detail in EIS Section 4. The applicability of U.S. DOT's Section 4(f) law and Section 6(f) of the L&WCF Act to these resources is summarized below. The need for a Section 4(f) evaluation is also based on whether the proposed WIS 83 improvements would use land from or otherwise affect the resources. See "Section 4(f) Evaluation" for more information.

Vernon Marsh Wildlife Area

- Owned/leased and administered by DNR.
- Funding for purchase and development obtained from the Land and Water Conservation Fund Act (L&WCF), Wisconsin's Outdoor Recreation Acquisition Program (ORAP), the Federal Aid in Wildlife Restoration Act commonly known as the Pittman-Robertson (PR) Act, and state Stewardship funds.
- Primary designated use is wildlife habitat management and preservation.

U.S. DOT Act Section 4(f) is not applicable because the primary designated use is wildlife habitat management and preservation. Passive recreational is incidental to the primary use. L&WCF Act Section 6(f) is applicable and similar compensation for right-of-way acquisition is required due to ORAP, PR, and state Stewardship funding.

Spring Creek Parkway Easement

- Easement on privately owned land funded and administered by Waukesha County.
- Primary designated use is preservation and protection of natural resources including floodplain, wetlands and wildlife habitat.

U.S. DOT Act Section 4(f) is not applicable because the primary designated use is preservation and protection of natural resources and the land is privately owned. Passive recreational use is incidental to the primary use. L&WCF Act Section 6(f) is not applicable.

Wales Community Park

- Owned and administered by the Village of Wales.
- Purchased and partially developed with state Stewardship funds administered by DNR.
- Public use recreational facilities (playfields) are located in the main portion of the park east of WIS 83. Primary designated use in the portion of the park adjacent to WIS 83 is open space and habitat preservation.

The existing park boundary and a proposed park boundary revision are illustrated on the Aerial Photo Exhibit inside the back cover (page 4 of 9). The boundary revision is being proposed because the Village of Wales has tentative plans for building a new fire station facility in the portion of the existing park that abuts WIS 83. Due to Stewardship funding aspects, the village is working with DNR on a land transfer that would swap the future fire station parcel with a similar sized parcel to the south. The revised park boundary would also be adjacent to WIS 83.

U.S. DOT Act Section 4(f) is applicable because this resource is a publicly owned park with public use recreational facilities. L&WCF Act Section 6(f) is not applicable.

Glacial Drumlin State Trail

- Owned and administered by DNR.
- Purchased and developed with L&WCF funds.
- Designated as a multi-use public recreational trail.

U.S. DOT Section 4(f) is applicable because the primary use is for recreational purposes. L&WCF Act Section 6(f) is also applicable.

Scuppernong Creek Parkway

- Consists of 3 parcels, two of which are owned, funded, and administered by Waukesha County and one of which is privately owned and leased by Waukesha County from the Hickory Hills subdivision.
- The parcels owned by Waukesha County have a combination of zoning depending on their distance from Scuppernong Creek (rural residential, conservancy, and wetland/floodplain). The leased parcel is zoned conservancy.
- Primary designated use is greenway to protect water quality, floodplain and wetland resources, and to provide a continuous corridor for plant and animal habitat.
- Future plans include a paved recreational trail within portions of the parkway.

U.S. DOT Act Section 4(f) is not applicable because the primary use is water quality/resource protection and wildlife habitat preservation. Passive recreational use is incidental to the primary use. L&WCF Act Section 6(f) is not applicable.

Naga-Waukee County Park and Golf Course

- Owned, funded and administered by Waukesha County.
- Officially designated and zoned county parkland.
- Primary designated use is public use recreational land.

U.S. DOT Act Section 4(f) is applicable because this resource is a public use recreational facility. L&WCF Act Section 6(f) is not applicable.

Lake Country Trail

- Owned, funded and administered by Waukesha County.
- Designated as a multi-use public recreational trail.

U.S. DOT Act Section 4(f) is applicable because this resource is a public use recreational facility. L&WCF Act Section 6(f) is not applicable because these funds were not used in the purchase or development of the trail as such. DNR has indicated (see letter in Appendix C, page C-21) that L&WCF and state Stewardship funds were used for two separate park development projects in the City of Delafield that “currently provide support facilities” for the trail.

Ice Age Trail

- Owned and administered by the Ice Age Park and Trail Foundation in cooperation with the National Park Service and DNR.
- Funding has been provided through the Ice Age Park and Trail Foundation.
- Designated National and State Scenic Trail.

U.S. DOT Act Section 4(f) is applicable because the Ice Age Trail is a designated national and state scenic trail that serves as a public use recreational facility. L&WCF Act Section 6(f) is not applicable.

Ice Age Park and Trail Foundation Parcel

- Owned and administered by the Ice Age Park and Trail Foundation in cooperation with the National Park Service and DNR.
- State Stewardship funds were used to purchase the land.
- Primary designated use is open space, wetland preservation/management, Bark River protection, education, and pedestrian use/enjoyment. The parcel also contains a hiking trail. The Ice Age Trail is just east of the parcel along Cottonwood Avenue.

U.S. DOT Act Section 4(f) is not applicable because the primary use is wetland preservation and Bark River corridor protection. Passive recreational use is incidental to the primary use. L&WCF Act Section 6(f) is not applicable. However, similar compensation for right-of-way acquisition is required because Stewardship funding was used in the purchase of this resource.

Historic Sites

In addition to the publicly owned resources discussed above, U.S. DOT Act Section 4(f) is applicable to the following structures/properties that have been found eligible to the National Register of Historic Places and that are within the area of potential effect for the proposed WIS 83 improvements. The need for a Section 4(f) evaluation is also based on whether the proposed WIS 83 improvements would use land from or otherwise affect these resources. See “Section 4(f) Evaluation” for more information.

- Genesee Woolen Mill Historic District
- Union House
- Old Genesee Town Hall
- Ten Chimneys Complex
- Magee-Oliver Farmstead
- Albert Campbell Residence

SECTION 4(f) EVALUATION

Wales Community Park

The existing park boundary and a proposed park boundary revision are illustrated on the Aerial Photo Exhibit inside the back cover (page 4 of 9). Land within the existing and proposed park boundary adjacent to WIS 83 is presently undeveloped. The boundary revision is being proposed because the Village of Wales has tentative plans for building a new fire station facility in the portion of the existing park that abuts WIS 83. Due to Stewardship funding aspects, the village is working with DNR on a land transfer that would swap the future fire station parcel with a similar sized parcel to the south. The revised park boundary would also be adjacent to WIS 83. The primary use of the new parcel would be for open space, passive recreation, and hiking.

Proposed WIS 83 improvements at this location would widen the existing highway to a 4-lane divided urban roadway. If the existing park boundary remains, the WIS 83 alignment would be shifted west to avoid the park with resultant residential proximity impacts on the west. If the land transfer occurs, the WIS 83 alignment would be centered on the existing alignment to balance the impacts. No new right-of-way would be required from either the existing or revised Wales Community Park boundary.

Glacial Drumlin State Trail

This trail passes under the existing WIS 83 overhead structure and follows an abandoned railroad corridor. The present vertical clearance between the trail and the overhead structure is approximately 23 feet (7 meters). Proposed WIS 83 improvements in the vicinity of the trail would widen WIS 83 to a 4-lane divided urban roadway and a multi-use path is proposed on the west side. The existing WIS 83 overhead structure is in poor condition and would be replaced. In addition, the hill at this location would be cut by approximately 3 feet (1 meter) to improve sight distance on WIS 83. The proposed improvements would not affect trail use or continuity and no new right-of-way would be required from the trail corridor. Trail use would be enhanced by making a connection to it from the proposed multi-use path along the west side of WIS 83.

The proposed Build Alternative would not use land from the Glacial Drumlin State Trail, and there would be no impacts to trail use or continuity. Therefore, no further Section 4(f) evaluation is required.

Naga-Waukeee County Park and Golf Course

This resource consists of a developed community park west of WIS 83 and an 18-hole public golf course east of WIS 83. No improvements to the existing 4-lane roadway are proposed in this WIS 83 segment and no new right-of-way would be required from the Naga-Waukeee Park and Golf Course. Therefore, no further Section 4(f) evaluation is required.

Lake Country Trail and Ice Age Trail

The Lake Country Trail crosses existing WIS 83 at an unsignalized intersection just north of County DR/Golf Road and runs through the south portion of the Naga-Waukeee Park and Golf Course. The Ice Age Trail crosses WIS 83 at Mariner Drive. On the west side of WIS 83 it runs along the north edge of Naga-Waukeee County Park. On the east side of WIS 83 the trail is described as occupying WIS 83 right-of-way to County KE although there has been no trail construction in the highway right-of-way. The unofficial trail used by hikers and others follows subdivision roads east of WIS 83 and crosses County KE about ¼ mile (0.4 km) east of WIS 83. Trail development within existing WIS 83 right-of-way has not occurred because the long range plan is to have the official Ice Age Trail cross WIS 83 concurrently with the Lake Country Trail. The Ice Age Trail would then run about ¼ mile (0.4 km) east of WIS 83 along the Naga-Waukeee Park and Golf Course and then be on easement to County KE.

No improvements to the existing 4-lane roadway are proposed in the County DR/Golf Road to Meadow Lane WIS 83 segment that includes the existing Lake Country Trail and Ice Age Trail crossings. Proposed WIS 83 improvements in the Meadow Lane to County KE segment would widen WIS 83 to a 4-lane hybrid urban/rural roadway. Therefore, the portion of the unimproved Ice Age Trail route that occupies existing WIS 83 right-of-way between Meadow Lane and County KE would be shifted to the new highway right-of-way.

Under this scenario, no further Section 4(f) evaluation is required because adjustments or changes in the alignment of the highway or trail would not substantially impair the continuity of the trail and thus there would be no use of land from the trail.

Based on input from Waukesha County, DNR, National Park Service, and Ice Age Park and Trail Foundation representatives at an inter-agency meeting held on March 27, 2003, there is a strong desire to provide a combined grade-separated trail crossing as part of the WIS 83 corridor study. Preliminary investigations indicate it could be possible to provide a future grade separated structure that would carry a combined trail facility over WIS 83 approximately 200 to 500 feet (61 to 152 meters) north of the present Lake Country Trail crossing. WisDOT has agreed to evaluate the feasibility of such a crossing along with associated engineering, safety, and cost aspects. Coordination with resource agencies will continue, and recommendations regarding both trails will be provided in the Final EIS.

Under this scenario, no further Section 4(f) evaluation is required because any new combined trail crossing and occupancy of highway right-of-way would be jointly developed. Further, adjustments or changes in the alignment of the highway or trails to accommodate a new combined crossing would not substantially impair the continuity of the trails and there would be no use of land from the trails.

Genesee Woolen Mill Historic District

The main portion of the Genesee Woolen Mill site is located about 500 feet (152 meters) east of existing WIS 83. The old millrace stream passes under existing WIS 83 through a modern concrete box culvert and extends to a dam west of WIS 83. The woolen mill complex is eligible to the National Register under Criterion D as an industrial archaeological resource and under Criterion A for the information it may yield in regard to the history of woolen mills in Wisconsin and Waukesha County in particular. The portion of the mill complex east of WIS 83 includes both visible and subsurface mill foundation remains/depressions, a residence and barn, the old “picker house”, and a small log building that was built with reclaimed logs from another location. All features except the log building are considered to be contributing elements, including the millrace crossed by WIS 83.

The 2-Lane Reconstruction Alternative would not involve any roadway widening at this location. The 4-Lane Corridor Preservation Alternative on existing alignment would consist of widening the existing 36-foot (11-meter) wide suburban roadway to a 52-foot (16-meter) wide urban roadway with curb and gutter. Widening would occur only on the west side, away from the main portion of the mill complex, and would require an approximate 10-foot (3-meter) wide strip of additional right-of-way and extension of the millrace box culvert. The Woolen Mill Historic District is outside the area of effect for the Off-Alignment 4-Lane Corridor Preservation Alternative (Alternative D).

Archaeological investigations in the area west of WIS 83 that would be potentially affected by any future highway construction yielded no evidence of any materials associated with the old mill complex or evidence of prehistoric sites. Further, much of the land within the existing highway right-of-way at the millrace crossing has been previously disturbed due to a 1989 reconstruction project that included extending the existing box culvert and associated excavation and backfill.

The 2-lane Reconstruction and the Off-Alignment 4-lane Corridor Preservation Alternative would not require any new right-of-way from the historic district, including the millrace at the WIS 83 crossing location. Therefore, no further Section 4(f) evaluation is required for these alternatives.

The 4-lane Corridor Preservation Alternative on existing alignment would require an approximate 10-foot (3-meter) strip of right-of-way for extending the box culvert over the millrace. Because the Woolen Mill complex, including the millrace, is an industrial archaeological site and no evidence of any archaeological material was found at the WIS 83/millrace crossing, there would be no effect on the site's characteristics for which it was found eligible to the National Register. Therefore, no further Section 4(f) evaluation is expected to be required if this alternative is selected. However, a final determination on Section 4(f) applicability would be based on further consultation with the State Historical Society as part of assessing effects under Section 106 of the National Historic Preservation Act.

Union House

This structure is located on the north side of WIS 83 just west of the Wisconsin Southern Railroad in Genesee Depot. The structure is a former hotel and tavern built in 1861. It has been found eligible to the National Register under Criterion A because it is one of the oldest buildings in Genesee Depot and was a primary center for social activity. It is also considered eligible under Criterion B because the original owner/proprietor played an important role in the overall development of Genesee Depot.

The 2-Lane Reconstruction Alternative would not involve any roadway widening at this location. The 4-Lane Corridor Preservation Alternative on existing alignment would widen existing WIS 83 to a 4-lane undivided cross section. Widening would occur on the south side of existing WIS 83, away from the Union House, and no new right-of-way would be required from this property. This property is outside the area of effect for the Off-Alignment 4-Lane Corridor Preservation Alternative (Alternative D).

None of the Build Alternatives would require use of land from this property and there would be no changes to the property's characteristics for which it has been found eligible to the National Register. Therefore, no further Section 4(f) evaluation is required.

Old Genesee Town Hall

This structure is located on the north side of WIS 83, west of the Wisconsin Southern Railroad in Genesee Depot. The old town hall has been placed on the National Register based on Criterion A because it served the social, cultural, and political needs of Genesee Depot for nearly 70 years.

The 2-Lane Reconstruction Alternative would not involve any roadway widening at this location. The 4-Lane Corridor Preservation Alternative on existing alignment would involve widening existing WIS 83 to a 4-lane undivided cross section. Widening would occur on the south side of WIS 83 away from the Old Genesee Town Hall, and no new right-of-way would be required from this property. This property is outside the area of effect for the Off-Alignment 4-Lane Corridor Preservation Alternative (Alternative D).

None of the Build Alternatives would require use of land from the Old Genesee Town Hall property and there would be no changes to the property's characteristics for which it has been found eligible to the National Register. Therefore, no further Section 4(f) evaluation is required.

Ten Chimneys Complex

The main Ten Chimneys complex is located off Depot Road, west of WIS 83 and Genesee Depot. A small parcel that is part of the designated National Historic Landmark boundary abuts the WIS 83 west right-of-way line for a distance of approximately 300 feet (91 meters). The Ten Chimneys complex has been placed on the National Register under Criteria B and C. Under Criterion B, Ten Chimneys is nationally significant in the area of performing arts for its association with Alfred Lunt and Lynn Fontanne who exerted a profound influence on twentieth century American theater and who are considered to be America's most famous theatrical couple. Lunt and Fontanne lived at Ten Chimneys from 1915 to 1983, during which time the complex was a social and cultural center of the American theater. It is eligible under Criterion C as an assemblage of Period Revival historic buildings.

The main house is situated in a ravine with hills rising to the sides and rear. A cottage sits at the crest of the ravine behind the main house. The secondary structures are all located over the top of the ravine and are not visible from the main house and its immediate grounds. None of the main complex buildings are visible from WIS 83. The National Historic Landmark boundary for the complex also includes the Noll parcel just north of the present day Ten Chimneys complex. The residence on the Noll parcel was the former caretaker house and is a contributing element in the National Historic Landmark boundary. The house is located approximately 80 feet (24 meters) west of existing WIS 83.

The 2-Lane Reconstruction Alternative would not involve any roadway widening at this location. The 4-Lane Corridor Preservation Alternative on existing alignment and the combination Off-Alignment Alternative D/4-Lane Corridor Preservation Alternative would widen existing WIS 83 to a 4-lane undivided cross section. Widening would occur slightly east (away from Ten Chimneys) to balance residential, school, and church proximity impacts in this WIS 83 segment. No new right-of-way would be required from Ten Chimneys. However, based on initial design concepts, a temporary grading easement could be required to match the roadway slope into the adjacent land. The grading easement would encompass an approximate 15-foot (5-meter) wide strip and some trees would be removed.

The 2-Lane Reconstruction Alternative and the Off-Alignment 4-Lane Corridor Preservation Alternative would not use land from this resource. The temporary sloping easement under the 4-Lane Corridor Preservation Alternative would be of short duration, would not change the ownership, and would not result in any temporary or permanent adverse change to the property's characteristics for which it has been found eligible to the National Register. Therefore, no further Section 4(f) evaluation is required.

Magee-Oliver Farmstead

This site is located east of WIS 83 and north of John's Way in Genesee Depot. The residence on this farmstead has been found eligible to the National Register under Criterion C as a fine example of Italianate style architecture.

The 2-Lane Reconstruction Alternative would not involve any roadway widening at this location, but would include placement of curb and gutter along the east side of WIS 83 within the existing right-of-way. The 4-Lane Corridor Preservation Alternative on existing alignment and the combination Off-Alignment Alternative D/4-Lane Corridor Preservation Alternative would widen existing WIS 83 to a 4-lane undivided cross section. Widening would occur on the

west side of WIS 83, away from the Magee-Oliver Farmstead and there would be no right-of-way acquisition from this property.

None of the Build Alternatives would require use of land from this property and there would be no changes to the property's characteristics for which it has been found eligible to the National Register. Therefore, no further Section 4(f) evaluation is required.

Albert Campbell Residence

This structure is located west of WIS 83 and north of Walnut Ridge Drive (north). This structure exhibits a Greek Revival architectural style that has been substantially altered. However, it has been found eligible to the National Register under Criterion B because Albert Campbell was a prominent township resident, farmer, and one of the first school commissioners.

Proposed improvements at this location would widen existing WIS 83 to a 4-lane hybrid urban/rural roadway and would include a multi-use path along the east side between County KE and Cardinal Lane. The best-fit alignment would widen east to avoid the Albert Campbell Residence and no new right-of-way would be required from this property.

The proposed Build Alternative would not require use of land from this property and there would be no changes to the property's characteristics for which it has been found eligible to the National Register. Therefore, no further Section 4(f) evaluation is required.

Future Trail Development

Any future multi-use recreation trails that would be constructed within or adjacent to the new WIS 83 right-of-way would be developed jointly by WisDOT, the applicable municipality, DNR, and other applicable agencies. Joint development would preclude applicability of Section 4(f) to such trails in the event that future adjustments or other improvements would be needed to either the trail facility or WIS 83.

SECTION 6(f) / RELATED EVALUATION

Vernon Marsh Wildlife Area

The only portion of the wildlife area that abuts existing WIS 83 right-of-way is an undeveloped finger of land providing access from WIS 83. The access is gated and locked, signed for non-motorized vehicles/hunting/hiking, and parking is available for about 1-2 vehicles. Proposed WIS 83 improvements at this location would widen WIS 83 to a 4-lane suburban roadway. The best-fit alignment would widen down the middle to balance residential proximity impacts. The existing access point to the wildlife area would be maintained and improved. Approximately 0.1 acre (0.4 ha) of new right-of-way would be required.

Compensation for the minor land acquisition would be determined in consultation with DNR in a future engineering design phase and would be done in accordance with the concept of fair market value and equivalent usefulness as specified in the L&WCF Act.

Ice Age Park and Trail Foundation Parcel

This parcel abuts the east side of existing WIS 83 in the area between County KE and Cardinal Lane. Proposed WIS 83 improvements at this location would widen the existing highway to a 4-lane hybrid urban/rural facility and would include a multi-use path along the east side between County KE and Cardinal Lane where the Ice Age Park and Trail Foundation parcel is located. The best-fit alignment would widen east to avoid impacts to a historic property west of WIS 83 near the Bark River. The proposed improvements would require an approximate 60-foot (18-meter) strip of new right-of-way from the Ice Age Trail parcel. Total right-of-way acquisition would be approximately 2.3 acres (1 ha).

Under the Uniform Act, the land area required for highway purposes would be compensated for at fair market value. The Ice Age Park and Trail Foundation suggests that compensation could be accomplished through providing a combined grade-separated crossing for the Ice Age Trail and Lake Country Trail (see letter in Appendix C, page C-10).

Other Resources

Land acquired from the Spring Creek and Scuppernong Creek Parkways would be compensated through purchase at fair market value from Waukesha County. At the inter-agency meeting held on March 27, 2003, it was suggested that a boardwalk type facility be used for a portion of the multi-use path that would be constructed at the bottom of the road embankment on the west side of WIS 83 near Scuppernong Creek. This was suggested to further minimize wetland impacts and will be considered in a future engineering design phase.